

VINCENT RODGERS, )  
)  
Movant, )  
)  
v. ) No. 4:05CV575 (CEJ)  
)  
UNITED STATES OF AMERICA, )  
)  
Respondent. )

This matter is before the Court upon the motion of Vincent Rodgers, an inmate at the Federal Medical Center in Lexington, Kentucky (FMC-Lexington), to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255 [Doc. #1]. See Rule 4 of the Rules Governing § 2255 Proceedings for the United States District Courts.

Liberalizing the motion, movant alleges that his convictions and sentences are invalid because: (i) he was denied effective assistance of counsel; (ii) his counsel failed to argue

that the indictment did not specify the amount of drugs in his possession; (iii) the government failed to verify the prior sentences used to enhance his federal sentence; and (iv) it was illegal to use the prior convictions in determining his federal sentence.

As noted above, movant currently has a direct appeal pending before the Eighth Circuit Court of Appeals. See Rodgers v. United States, No. 04-1881. Therefore, movant's § 2255 motion is prematurely filed and must be dismissed. See United States v. Jagim, 978 F.2d 1032, 1042 (8th Cir. 1992); Masters v. Eide, 353 F.2d 517, 518 (8th Cir. 1965).

In accordance with the foregoing,

**IT IS HEREBY ORDERED** that movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [Doc. #1] is **DISMISSED**, without prejudice, as prematurely filed.

An appropriate order shall accompany this memorandum and order.

Dated this 17th day of June, 2005.

  
UNITED STATES DISTRICT JUDGE